



CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 04/15/03

AGENDA ITEM 4

WORK SESSION ITEM _____

TO: Mayor and City Council

FROM: Director of Community and Economic Development

SUBJECT: Establishment of Maintenance District No. 2 –Eden Shores Buffer Zone and Pre-Treatment Pond - Preliminarily Approve the Engineer's Report, Adopt a Resolution of Intention and Set June 10, 2003, as the Public Hearing Date

RECOMMENDATION:

It is recommended that the City Council adopt the attached resolution pertaining to Maintenance District No. 2.

DISCUSSION:

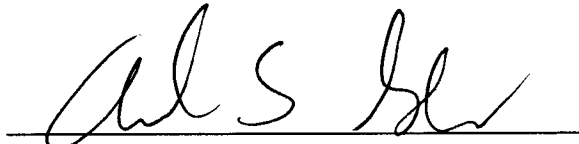
Maintenance District No. 2 ("District") is being formed to fund the operation and maintenance of storm water facilities and the water buffer bordering the residential portion of Eden Shores. The District encompasses the three residential tracts in Eden Shores, totaling 525 homes.

The storm water facility, a pretreatment pond, is located adjacent to the pumping station in the business park. The Flood Control District, based on their experience with prior years expenditures and similar storm water pretreatment ponds, provided the FY 2003-04 budget amounts in the Engineer's Report. Standard Pacific anticipates completion of the pond in September 2003, with the Flood Control District assuming responsibility by the end of the year.

The water buffer consists of the landscaping, recirculating pumps and filters, maintenance roads, pedestrian bridge, and anti-predator and perimeter fencing. Per the Conditions of Approval for the Tentative Map, Standard Pacific is required to fund and operate the water buffer channel for "not less than 24 months, nor more than 36 months after completion of buffer construction and demonstrated satisfactory performance, as approved by the Director of Public Works." The developer anticipates completion of these improvements in September 2003, with the District potentially taking over responsibility in 2005 or 2006.

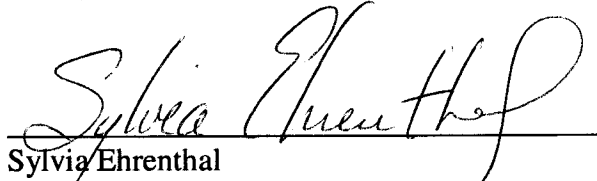
Based on the estimated maintenance and operation costs of the pond and buffer facilities, once operating correctly, the annual assessment has been estimated at \$655.00. This base assessment is indexed to the Bay Area Consumer Price Index. The current assessment, \$155.00 per parcel, provides sufficient funds for the pretreatment pond for the proposed FY 2003-04 budget.

Prepared by:



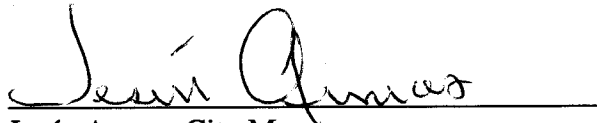
Andrew S. Gaber, P.E.
Development Review Engineer

Recommended by:



Sylvia Ehrenthal
Director of Community and Economic Development

Approved by:



Jesús Armas, City Manager

Exhibits:

Engineer's Report
Draft Resolution

4/9/03

DRAFT

PRELIMINARY ENGINEER'S REPORT

CITY OF HAYWARD

**MAINTENANCE DISTRICT No. 2
(Eden Shores)**

Fiscal Year 2003-04



April 15, 2003

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CITY COUNCIL MEMBERS AND CITY STAFF

Roberta Cooper
Mayor

Kevin Dowling
Council Member

Olden Henson
Council Member

Joseph Hilson
Council Member

Matt Jimenez
Council Member

Doris Rodriquez
Council Member

William Ward
Council Member

Jesus Armas
City Manager

Michael O'Toole
City Attorney

Angelina Reyes
City Clerk

Dan Nagle
Landscape Manager

ENGINEER'S REPORT

CITY OF HAYWARD
MAINTENANCE DISTRICT No. 2
FISCAL YEAR 2003-04

The undersigned, acting of behalf of the City of Hayward, respectfully submits the enclosed Engineer's Report as directed by the City of Hayward City Council. The undersigned certifies that he is a Professional Engineer, registered in the State of California.

Dated: _____

By: _____

Andrew S. Gaber, P.E.
RCE No. 45187

I HEREBY CERTIFY that the Engineer's Report, together with the Assessment Roll and Assessment Diagram thereto attached, was filed with me on the ____ day of _____, 2003.

Angelina Reyes
City Clerk, City of Hayward

By: _____

I HEREBY CERTIFY that the enclosed Engineer's Report, together with the Assessment Roll and the Assessment Diagram thereto attached, was approved and confirmed by the City Council of the City of Hayward, Alameda County, California, on the ____ day of _____, 2003.

Angelina Reyes
City Clerk, City of Hayward

By: _____

I HEREBY CERTIFY that the enclosed Engineer's Report, together with the Assessment Roll and the Assessment Diagram thereto attached, was filed with the County Auditor of the County of Alameda, on the ____ day of _____, 2003.

By: _____

Andrew S. Gaber, P.E.
RCE No. 45187

SECTION I

**INTRODUCTION
ENGINEER'S REPORT**

**CITY OF HAYWARD
MAINTENANCE DISTRICT NO. 2**

FISCAL YEAR 2003-04

Background Information

On April 16, 2002, by Resolution No. 02-043, the City Council approved the Final Map of Tract 7317 for a 109 lot single-family residential subdivision located on the northerly side of Eden Shores Boulevard and westerly of the Union Pacific Railroad.

On November 26, 2002, by Resolution No. 02-171, the City Council approved the Final Map of Tract 7361 for a 116 lot single-family residential subdivision located on the southerly side of Eden Shores Boulevard and westerly of the Union Pacific Railroad.

The Final Map for Tract 7361, for a 309 lot single-family residential subdivision, will be the third phased final map for the Vesting Tentative Map 7065 approved by the City Council on September 25, 2001, by Resolution No. 01-140 for a subdivision located on the southwesterly side of Eden Shores Drive and westerly of the Union Pacific Railroad.

Conditions of approval for Tracts No. 7317, 7360, 7361, included provisions for construction of a water buffer channel and storm-water pretreatment pond, masonry walls, anti-predator fences, and landscaping within the proposed development area. Maintenance District No. 2 will provide a funding source to operate and maintain these improvements and will also including the furnishing of water and electrical energy along with debris removal, weeding, trimming and pest control spraying.

Proposition 218 Compliance

On November 5, 1996 California voters approved Proposition 218 entitled "Right to Vote On Taxes Act" which added Articles XIIC and XIID to the California Constitution. While its title refers only to taxes, Proposition 218 establishes new procedural requirements for the formation and administration of assessment districts.

These new procedures stipulate that all property owners must be provided an opportunity to vote on the proposed formation of the assessment district. Each property owner will be mailed a notice and ballot. Property owners will be given approximately 45 days to vote and return their ballots to the City Clerk. A Public Hearing will be conducted to give all of the affected property owners the ability to speak either in favor or against the proposed assessment district. At the conclusion of the Public Hearing the ballots will be tabulated and the results reported to the City Council. If there are more votes in favor of forming the assessment district than there are opposed, weighted by the assessment obligation, then the City Council may form the assessment district.

Current Annual Administration

The annual Engineer's Report includes: (1) a description of the improvements to be operated, maintained and serviced, (2) an estimated budget, and (3) a listing of the proposed assessments to be levied upon each assessable lot or parcel.

The City of Hayward will hold a public hearing on June 10, 2003, to provide an opportunity for any interested person to be heard. At the conclusion of the public hearing, if the assessment balloting is favorable, the City Council may adopt a resolution confirming the levy of assessments as originally proposed or as modified. Following the adoption of this resolution, the final Assessor's roll will be prepared and filed with the County Auditor's office to be included on the FY 2003-04 tax roll.

Because only a few, if any homes are expected to be occupied on this date, the majority of the lots will remain under the ownership of Standard Pacific. Payment of the assessment for each parcel will be made in the same manner and at the same time as payments are made for property taxes. All funds collected through the assessment must be placed in a special fund and can only be used for the purposes stated within this report.

SECTION II

**ENGINEER'S REPORT PREPARED PURSUANT TO THE PROVISIONS
OF CHAPTER 26 OF PART 3 OF DIVISION 7 OF THE STREETS AND HIGHWAYS
CODE OF THE STATE OF CALIFORNIA**

**CITY OF HAYWARD
MAINTENANCE DISTRICT NO. 2**

FISCAL YEAR 2003-04

Pursuant to Part 3, Division 7 of the Streets and Highways Code of the State of California and the Chapter 10, Article 10 of the Hayward Municipal Code, and in accordance with the Resolution of Intention, being Resolution No. 03-_____, Preliminarily Approving the Engineer's Report, on April 15, 2003, by the City Council of the City of Hayward, County of Alameda, State of California, in connection with the proceedings for:

**CITY OF HAYWARD
MAINTENANCE DISTRICT No. 2**

Hereinafter referred to as the "District", I, Andrew S. Gaber, the duly appointed ENGINEER OF WORK, submit herewith the "Report" consisting of five (5) parts as follows:

PART A: PLANS AND SPECIFICATIONS

This part describes the improvements in the District. Plans and specifications for the improvements are as set forth on the lists thereof, attached hereto, and are on file in the Office of the City Clerk of the City of Hayward, and are incorporated herein by reference.

PART B: ESTIMATE OF COST

This part contains an estimate of the cost of the proposed improvements, including incidental costs and expenses in connection therewith, as set forth on the lists thereof, attached hereto, and are on file in the Office of the City Clerk of the City of Hayward.

PART C: MAINTENANCE ASSESSMENT DISTRICT DIAGRAM

This part incorporates, by reference, a Diagram of the Maintenance Assessment District showing the exterior boundaries of the Maintenance Assessment District, the boundaries of any zones within the Maintenance Assessment District, and the lines and dimensions of each lot or parcel of land within the Maintenance Assessment District.

PART D: METHOD OF APPORTIONMENT OF ASSESSMENT

This part describes the method of apportionment of assessments based upon the parcel classification of land within the Assessment District, and in proportion to the estimated benefits to be received.

PART E: PROPERTY OWNER LIST & ASSESSMENT ROLL

This part contains an assessment of the estimated cost of the improvements on each benefited lot or parcel of land within the Assessment District. The Assessment Roll is filed in the Office of the Hayward City Clerk.

PART A

PLANS AND SPECIFICATIONS

The facilities, which have been constructed within the City of Hayward's Maintenance District No. 2 boundaries, and those which may be subsequently constructed, will be operated, maintained and serviced and are generally described as follows:

DESCRIPTION OF IMPROVEMENTS

CITY OF HAYWARD
MAINTENANCE DISTRICT No. 2

FISCAL YEAR 2003-04

The following improvements are proposed to be operated, maintained and serviced in Maintenance District No. 2 for Fiscal Year 2003-04:

- *Water Buffer Channel;*
- *Storm-water Pre-Treatment Pond;*
- *Masonry Walls;*
- *Anti-predator Fences; and*
- *Miscellaneous Landscaping*

The operation, maintenance and servicing of these improvements include, but are not limited to: personnel; water, for irrigation and buffer replenishment; electrical energy; materials, including diesel fuel and oil, debris removal, weeding, trimming, pest control spraying, etc.

PART B

ESTIMATE OF COST

Chapter 10, Article 10 of the Hayward Municipal Code and as supplemented by the provisions of Chapter 26 of Part 3 of Division 7 of the Streets and Highways Code of the State of California provides that the total cost of operation, maintenance and servicing of the water buffer channel, water treatment pond, masonry walls, anti-predator fences and landscaping can be recovered by the District. Incidental expenses including administration of the District, engineering fees, legal fees and all other costs associated with these improvements can also be included;

The costs for Fiscal Year 2003-04 are summarized on the following page. These cost estimates have been provided by the City of Hayward.

Maintenance District 2 - Fiscal Year 2003-04 Eden Shores		
	Operating Budget	FY 2003-04 Budget
<u>I. MAINTENANCE COSTS</u>		
(a) Landscaping maintenance including debris removal, weeding, trimming, and spraying	\$29,681.00	\$0.00
(b) Masonry wall (surface maintenance)	\$3,060.00	\$0.00
(c) Electrical energy	\$1,616.00	\$0.00
(d) Irrigation and buffer replenishment water	\$38,590.00	\$0.00
(e) Anti-predator fence maintenance	\$35,865.00	\$0.00
(f) Steel structures maintenance	\$17,033.00	\$0.00
(g) Buffer lake maintenance	\$51,958.00	\$0.00
(d) Pre-treatment pond	\$5,000.00	\$5,000.00
(e) Contingency (15%)	\$27,420.45	\$750.00
Total Maintenance Cost	\$210,223.45	\$5,750.00
<u>II. INCIDENTAL COSTS</u>		
(a) Administration (City)	\$2,500.00	\$2,500.00
(b) Administration (County)	\$2,500.00	\$2,500.00
(c) Engineer's Report, preparation of documents, printing, and advertising	\$5,650.00	\$4,000.00
(d) County Collection Charges (1.7%)	\$5,845.88	\$1,383.38
Total Incidental Costs	\$16,495.88	\$10,383.38
<u>III. RESERVES</u>		
(a) Operating Reserves (50% of Maintenance & Incidentals) ¹	\$113,359.66	\$8,066.69
(b) Capital Reserves ²	\$3,796.01	\$57,174.94
Total Reserve Costs	\$117,155.68	\$65,241.63
<u>IV. TOTAL ASSESSABLE COSTS</u>	\$343,875.00	\$81,375.00
Less Surplus from prior fiscal year	\$0.00	\$0.00
NET ASSESSMENT COLLECTION FOR FISCAL YEAR	\$343,875.00	\$81,375.00
Number of Assessable Parcels	525	525
Collection per Parcel	\$655.00	\$155.00
Base Assessment per Parcel	\$655.00	\$155.00
<u>NOTES:</u> ⁽¹⁾ Operating reserves are needed for future fiscal years because the City does not receive the assessment revenue from the County until January, therefore it is necessary to have an operating reserve fund to cover 6 months of cash flow from July 1 through December 31 each fiscal year. ⁽²⁾ In the event capital facilities need replacement because of failure, damage or vandalism these funds will be used. Since the developer is responsible for a 1 year maintenance period the capital reserves will be collected over the next several years.		

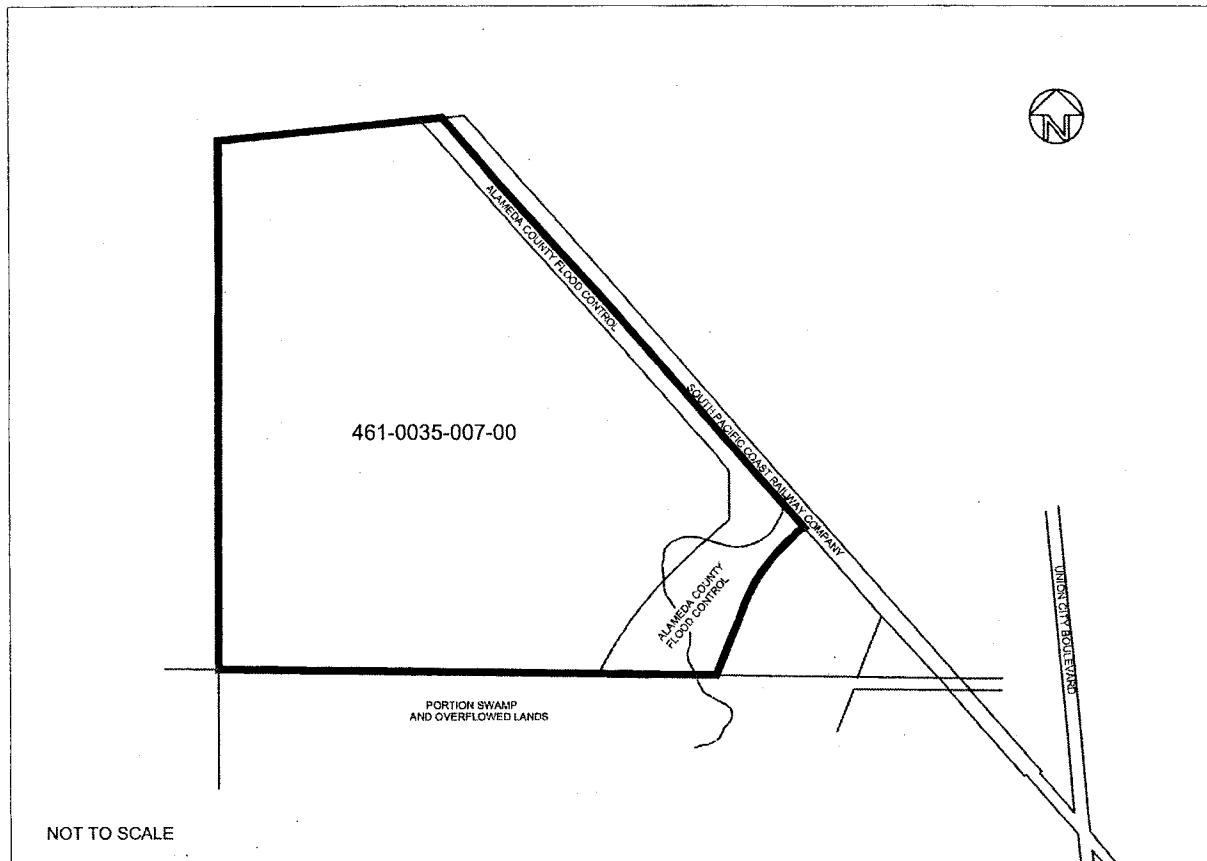
PART C

ASSESSMENT DISTRICT DIAGRAM

The Assessment District Diagram for the City of Hayward's Maintenance District No. 2 (Eden Shores) is on file in the Office of the Hayward City Clerk and is incorporated in this report on the following page.

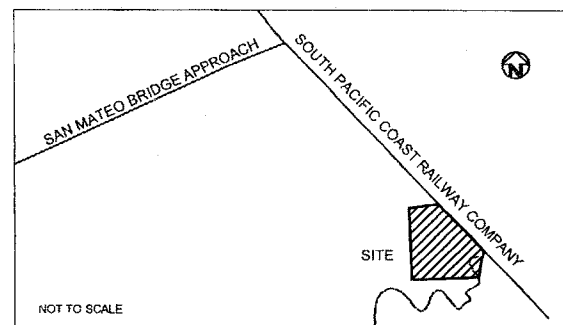
A detailed description of the lines and dimensions of each lot or parcel within the Assessment District are those lines and dimensions shown on the maps of the Assessor of the County of Alameda for FY 2003-04.

For additional information as to the bearings, distances, monuments, easements, etc. of subject subdivisions, reference is hereby made to Tracts No. 7317, 7360 and 7361 filed in the Office of the Recorder of Alameda County.



NOTE:
 This boundary map is only for the purpose of indicating the lots being assessed, the assigned assessment numbers for said lots and the relationship to the surrounding streets.

For a detailed description of the lines and dimensions of the lots, reference is made to the Alameda County Assessor's Maps for the fiscal year 2003-04. For information on the streets and other appurtenant lines and dimensions within the subdivided area, reference is made to the filed final map of Tracts 7065, 7317, 7360, and 7361.



**APPROVED
ENGINEER OF WORK**

BY: _____ DATE _____

Filed In the Office of the City Clerk of the City of Hayward, County of Alameda, State of California this _____ Day of _____, 2003.

 CITY CLERK, CITY OF HAYWARD
 COUNTY OF ALAMEDA, CALIFORNIA

An assessment was Confirmed and Levied by the City of Hayward, California, on the Lots, Places and Parcels of Land shown on this Assessment Diagram on the _____ Day of _____, 2003 and said Assessment Diagram and the Assessment Roll were filed in the Office of the City Clerk, City of Hayward on the _____ Day of _____, 2003. Reference is made to said Recorded Assessment Roll for the Exact Amount of each Assessment levied against each Parcel of Land Shown on the Assessment Diagram.

 CITY CLERK, CITY OF HAYWARD, CA.

COUNTY AUDITOR'S CERTIFICATE:

On this _____ Day of _____, 2003, this Assessment Diagram and the Accompanying Assessment Roll have been filed in the Office of the Auditor of Alameda County.

 AUDITOR OF THE COUNTY OF ALAMEDA,
 STATE OF CALIFORNIA

COUNTY RECORDER'S CERTIFICATE:

Recorded this _____ Day of _____, 2003, in the Office of the County Recorder of the County of Alameda, in Book _____ of Maps of Assessment District at Pages _____ Thereof at _____.

 COUNTY RECORDER,
 COUNTY OF ALAMEDA, STATE OF CALIFORNIA

**ASSESSMENT BOUNDRY MAP
MAINTENANCE DISTRICT NO. 2
(Eden Shores)**

LEGEND

— ASSESSMENT DISTRICT
BOUNDARY

PART D

METHOD OF APPORTIONMENT OF ASSESSMENT

GENERAL

Chapter 10, Article 10 of the Hayward Municipal Code and as supplemented by the provisions of Chapter 26 of Part 3 of Division 7 of the Streets and Highways Code of the State of California permits the establishment of assessment districts by agencies for the purpose of providing certain public improvements which include the operation, maintenance and servicing of water buffer channels, water treatment ponds, masonry walls, predator fences and landscaping.

Proposition 218 requires that maintenance assessments must be levied according to benefit rather than according to assessed value. In addition, Article XIID, Section 4(a) of the California Constitution limits the amount of any assessment to the proportional special benefit conferred on the property.

Because assessments are levied on the basis of benefit, they are not considered a tax, and, therefore, are not governed by Article XIII A of the California Constitution.

Article XIID provides that publicly owned properties must be assessed unless there is clear and convincing evidence that those properties receive no special benefit from the assessment. Exempted from the assessment would be the areas of public streets, public avenues, public lanes, public roads, public drives, public courts, public alleys, public easements and rights-of-ways.

The properties benefiting from the operation, maintenance and servicing of water buffer channels, water treatment ponds, masonry walls, predator fences and landscaping consist of the 525 single-family residential lots located within Tracts No. 7317, 7360 and 7361.

Each of the 525 single-family residential lots receive a special benefit in that they are able to be develop because protection to the adjacent open space has been provided through the construction of these improvements. The special benefit derived by the individual parcels is indistinguishable between parcels. Therefore, all residential parcels derive the same benefit and the corresponding method of assessment for residential land uses is based on a per parcel basis.

The projected FY 2003-04 maintenance costs, including incidental costs, is \$81,375.00. The assessment rate for FY 2003-04 will be \$155.00 per parcel.

PART E

PROPERTY OWNER LIST & ASSESSMENT ROLL

A list of names and addresses of the owners of all parcels within the City of Hayward's Maintenance District No. 2 is shown on the last equalized Property Tax Roll of the Assessor of the County of Alameda, which is hereby made a part of this report. This list is keyed to the Assessor's Parcel Numbers as shown on the Assessment Roll on file in the Office of the Hayward City Clerk.

The proposed assessments and the amount of assessments for FY 2003-04 apportioned to each lot or parcel, as shown on the latest roll at the Assessor's Office, are on file in the Office of the City Clerk. The description of each lot or parcel is part of the records of the Assessor of the County of Alameda and these records are, by reference, made a part of this report.

The total proposed assessment for FY 2003-04 is \$81,375.00.

The Assessment Roll for FY 2003-04 is included on the following page of this Report and is on file in the Office of the Hayward City Clerk.

APPENDIX A
FY 2003-04
ASSESSMENT ROLL

DRAFT

HAYWARD CITY COUNCIL

mac
4/19/03

RESOLUTION NO. _____

Introduced by Council Member _____

RESOLUTION PRELIMINARILY APPROVING ENGINEER'S REPORT, DECLARING INTENTION TO LEVY ASSESSMENTS FOR FISCAL YEAR 2003-2004, AND SETTING JUNE 10, 2003, AS THE PUBLIC HEARING DATE CONCERNING THE ESTABLISHMENT OF MAINTENANCE DISTRICT NO. 2 - EDEN SHORES STORM WATER FACILITIES AND WATER BUFFER (MD NO. 2)

BE IT RESOLVED by the City Council of the City of Hayward, as follows:

1. Maintenance District No. 2-Eden Shores Buffer Zone and Pre-Treatment Pond (the "maintenance district") is being formed to fund the operation and maintenance of storm water facilities and the wetland buffer bordering the residential portion of Eden Shores which encompasses the three residential tracts in Eden Shores totaling 525 homes;
2. The Engineer of Work has prepared a report in accordance with the City of Hayward Municipal Code, Chapter 10, Article 10, section 10-10.25. Said report has been made, filed, and duly considered by this City Council and is hereby deemed sufficient and preliminarily approved. Said report shall stand as the report for all subsequent proceedings related to the proposed levy of district assessments for fiscal year 2003-2004.
3. It is the intention of the City Council to order the levy and collection of assessments for the maintenance of the storm water facilities and storm wetland buffer pursuant to Part 3, Chapter 26 of Division 7 of the California Streets and Highways Code (commencing with section 5820 thereof).
4. The proposed assessment is \$155 per parcel.
5. Reference is hereby made to the aforementioned report on file with the City Clerk for a full and detailed description of the improvements, the boundaries of the proposed maintenance district, and the proposed assessments upon assessable lots within said district.
6. On June 10, 2003, at the hour of 8 p.m., in the regular meeting place of this City Council, City Council Chambers, 777 B Street, Hayward, California, a public hearing will be held on the levy of the proposed assessment.

Prior to the conclusion of said public hearing, any interested person may file a written protest with the City Clerk, or having previously filed a protest, may file a written withdrawal of that protest. A written protest by a property owner shall contain a description sufficient to identify the property owned by such owner.

7. The City Clerk is hereby directed to cause a notice of said meeting and hearing to be made in the form and manner provided by law, specifically section 54954.6 of the Government Code of the State of California.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2003

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward